

June 20, 2013

Gary Epstein, Incentive Auction Task Force Chair  
Ruth Milkman, Chief, Wireless Telecommunications Bureau  
William Lake, Chief, Media Bureau  
Federal Communications Commission  
445 12<sup>th</sup> St., SW  
Washington, DC 20554

Re: *Expanding the Economic and Innovation Opportunities of Spectrum  
Through Incentive Auctions, GN Docket No. 12-268*

Dear Gary, Ruth and Bill:

While NAB intends to file more comprehensive comments replying to submissions made following the Wireless Telecommunications Bureau's ("Wireless Bureau") May 17, 2013, *Public Notice* in the above-referenced proceeding,<sup>1</sup> we want to rectify immediately a significant and unfortunate error in a study originally filed by Intel and then relied upon by T-Mobile in its *Public Notice* comments. In March, as part of its reply comments on the original Notice of Proposed Rulemaking (*NPRM*),<sup>2</sup> Intel submitted a study in the record that completely miscalculates the current level of congestion in the UHF band between channels 38-51.<sup>3</sup> The result inadvertently distorts the breadth of the challenge of repacking broadcasters as part of the auction process and this inaccuracy – later relied upon by another stakeholder – demonstrates how little is commonly understood about the task of relocating broadcasters who do not participate in the auction.

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<sup>1</sup> See Public Notice, "Wireless Telecommunications Bureau Seeks to Supplement the Record on the 600 MHz Band Plan," GN Docket No. 12-268 (rel. May 17, 2013).

<sup>2</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking, 27 FCC Rcd 12357 (2012).

<sup>3</sup> Reply Comments of Intel Corporation, GN Docket No. 12-268 (March 12, 2013), at 9-10; Comments of T-Mobile (June 14, 2013), at 12-13.

In its March 12, 2013, reply comments to the *NPRM*, Intel provided an analysis suggesting that TV channels above channel 37 are not used in a large number of markets. Based on the erroneous notion that the country contains 984 TV markets, Intel concluded that a whopping 98% of TV markets have three or fewer stations on channels above channel 37, and more than half of the TV markets have *no* channels in that range.<sup>4</sup> If true, that fact certainly would suggest that much of the future 600 MHz wireless band is already free and clear and the task of clearing the rest will be relatively simple. T-Mobile uncritically based some of its analysis on Intel's methodology and conclusions in support of its band plan comments filed on June 14, 2013, in response to the *Public Notice*.

Determining what constitutes a TV market is simple and clear. For over a decade and a half, the FCC has defined TV markets using Nielsen's Designated Market Areas ("DMAs").<sup>5</sup> There are 210 DMAs in the United States.<sup>6</sup> Rather than relying on the traditional and accepted DMA metric, however, it appears Intel's study mistakenly assumed that each station's "city of license" (*i.e.*, the exact city to which the license is designated) is its relevant market. As explained below, the city of license offers no analytical value whatsoever for the task of evaluating the prospect of repacking broadcasters.

The most telling examples are the nonsensical results generated by the study itself. For instance, the study assumes that one station licensed to "Tampa" and a second station licensed to "Tampa-St. Petersburg" operate in different markets. The study makes the same misstep when considering two Florida stations licensed to "Panama" and "Panama City," respectively. Perhaps the most egregious error resulting from this approach is that the study considers Florida stations licensed to Leesburg and Melbourne to be in different markets *despite the fact that the stations are located at the same transmitter site*. The study also led to the head-scratching conclusion that Fairbanks, Alaska is the most congested TV market in the nation (having seven stations on channels above TV channel 37).

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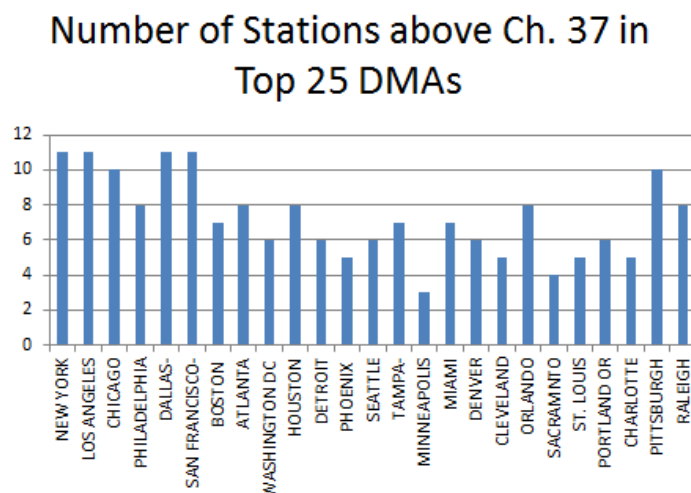
<sup>4</sup> Intel also computed that 286 TV markets have only 1 channel; 65 TV markets have 2 channels; 34 TV markets have 3 channels; 11 TV markets have 4 channels; 8 TV markets have 5; and only 1 market has as many as 7 channels above channel 37.

<sup>5</sup> See *In-State Broadcast Programming: Report to Congress Pursuant to Section 304 of the Satellite Television Extension and Localism Act of 2010*, 26 FCC Rcd 11919 (2011) at ¶ 5 ("Under the Communications Act and the Commission's rules, [the FCC] use[s] DMAs to define local markets.").

<sup>6</sup> *Id.*

The more appropriate approach would consider the effect of repacking through a DMA lens. Based on this well understood and universally utilized measurement, more than one-third of all full power and Class A TV stations (602 out of 1702 stations) in the UHF band are located above channel 37. Nearly half (45%) of all 210 DMAs have three or more channels above channel 37 (as opposed to the 2% figure in the Intel study). In fact, in the top five TV DMAs, there are 51 stations on channels above channel 37, ranging from 8 to 11 stations in each market. In the top ten DMAs, there are 91 stations above channel 37 with 6 to 11 such stations in a market. The following chart shows the distribution of stations above Channel 37 in the top 25 DMAs. The top 25 DMAs represent about 12% of the 210 TV markets and all of these markets contain 3 or more stations on channels above channel 37.

The chart below provides a look at the number of full power and Class A stations currently operating above channel 37 in the Top 25 DMAs:



The purpose of correcting the record here is to suggest nothing more than that industry and the Commission need to work from the same page to properly analyze and address the enormous challenge of repacking and relocating broadcasters. NAB believes that it can be achieved, and in such a manner that opens up spectrum for mobile broadband and preserves coverage areas and populations served by TV broadcasters. But we must be cautious in our approach to this task, as it has never before been attempted on such a large scale, and certainly not in the compressed timeframe envisioned by the *NPRM*. NAB continues to remain engaged in the auction process and to offer the

Gary Epstein  
Ruth Milkman  
William Lake  
June 20, 2013  
Page 4

Commission our unrivaled experience in repacking to aid its effort to conduct a successful auction.

Sincerely,

A handwritten signature in dark ink, appearing to read "Rick Kaplan", with a long horizontal flourish extending to the right.

Rick Kaplan  
Executive Vice President, Strategic Planning